

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )  
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California Public Utilities Commission's )  
Petition for Additional Authority to )  
Implement Number Conservation Measures )

NSD File No. L-98-136  
DA 99-928

Common Carrier Bureau  
Network Service Division  
Office of the Chief

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COMMENTS OF AT&T CORP.

Federal Communications Commission  
Office of Secretary

Pursuant to Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, AT&T Corp.

("AT&T") hereby submits its comments on the California Public Utilities Commission's

("CPUC") petition for additional authority to implement number conservation measures.<sup>1</sup>

The CPUC is the fifth state commission to file a petition<sup>2</sup> seeking a broad delegation of power over number administration pursuant to the Commission's recent Pennsylvania Order.<sup>3</sup>

<sup>1</sup> Petition of the California Public Utilities Commission and of the People of the State of California for Delegation of Additional Authority, NSD File No. L-98-136, filed April 23, 1999 ("CPUC Petition").

<sup>2</sup> See Florida Public Service Commission Petition for Additional Delegated Authority to Implement Number Conservation Measures, NSD File No. L-99-33, filed April 2, 1999; Maine Public Utilities Commission Petition for Additional Authority to Implement Number Conservation Measures, NSD File No. L-99-27, filed March 17, 1999; Massachusetts Department of Telecommunications and Energy's Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781 and 978 Area Codes, NSD File No. L-99-19, filed February 17, 1999; New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, NSD File No. L-99-21, filed February 19, 1999.

<sup>3</sup> In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 19009 (1998) ("Pennsylvania Order").

Because all five state commissions seek essentially the same relief and raise substantively identical claims, AT&T will not burden the record by repeating the arguments it has offered in response to those previous waiver requests, but instead hereby incorporates into these comments by reference its prior pleadings concerning each of the state petitions.

Although AT&T continues to urge the Commission to move forward promptly with the adoption of national conservation standards, AT&T believes that, as explained in detail below, the public interest could be served by the implementation of an interim conservation measure. In particular, AT&T urges the Commission to permit state commissions to implement limited mandatory interim thousands block pooling plans, subject to certain conditions designed to ensure competitive neutrality and to avoid the intolerable strains on carriers' resources that a patchwork of state pooling standards could create.

As each of the state commission petitions describes, in recent years NPAs have been exhausting at an unprecedented rate, forcing consumers and businesses to incur the expense and inconvenience of area code relief with increasing frequency, and threatening the North American Numbering Plan ("NANP") itself with eventual exhaust. Public dissatisfaction with repeated area code changes is often directed at state commissions, as are demands to "do something" about number conservation. AT&T has sought to work with the FCC, state commissions, the North American Numbering Council and industry groups to improve the efficiency of number administration while at the same time meeting ever-increasing consumer demand for telecommunications services.

In the weeks since the state commission petitions were filed, the Commission released its Numbering Resource Optimization NPRM.<sup>4</sup> The NRO NPRM "tentatively conclude[s] that implementing thousands-block pooling in major markets is an important numbering resource optimization strategy that is essential to extending the life of the NANP."<sup>5</sup> AT&T strongly supports this conclusion and is committed to assisting the Commission in developing national rules to govern pooling.

The NRO NPRM also recognizes, however, that implementation of a national pooling scheme could take 10 to 19 months following a Commission order.<sup>6</sup> Although AT&T continues to believe, as it has repeatedly stated, that it is imperative that pooling be governed by uniform national rules, substantial gains in numbering optimization potentially can be achieved through properly implemented interim pooling measures. As the NRO NPRM finds, there is widespread support for thousands block pooling.<sup>7</sup> In order to reduce the costs and inconveniences imposed on end-users by current numbering inefficiencies, the Commission should permit state commissions to order limited mandatory thousands block pooling, subject to Commission oversight and approval. AT&T respectfully proposes that the following principles should govern implementation of interim pooling measures.

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<sup>4</sup> Numbering Resource Optimization, Notice of Proposed Rulemaking, CC Docket No. 99-200, released June 2, 1999 ("NRO NPRM").

<sup>5</sup> Id., ¶ 138.

<sup>6</sup> Id., ¶ 158.

<sup>7</sup> Id. ("With little exception, parties commenting on the LRN-based methods of numbering optimization strategies agree that a nationwide thousands-block pooling architecture could make more efficient use of NXX codes already allocated and those awaiting allocation.").

First, none of the five state commission numbering petitions now pending provides adequate detail to permit the Commission to evaluate an interim thousands block pooling proposal, or to permit a waiver under the standards required by 47 C.F.R. § 1.3.<sup>8</sup> Indeed, none of the petitions describes a specific pooling plan of any kind.<sup>9</sup> Before permitting any mandatory interim thousands block pooling measure, the Commission should require the relevant state commission to submit a reasonably detailed proposal. That proposal should be subject to an abbreviated public comment cycle, and the Commission should commit to act on it within 90 days of the date it was filed. AT&T stands ready to work with other carriers to assist the CPUC and other state commissions in developing interim pooling proposals.

The abbreviated review cycle AT&T proposes will permit the Commission to perform the critical function of ensuring that state commission interim pooling efforts are sufficiently uniform to avoid the harms of piecemeal number administration,<sup>10</sup> and to ensure that such programs are competitively neutral. Indeed, it is likely that following the approval of the first

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<sup>8</sup> See, e.g., Comments of AT&T Corp. on Petition for Waiver, pp. 7-8, filed May 14, 1999 in Florida Public Service Commission Petition for Additional Delegated Authority to Implement Number Conservation Measures, NSD File No. L-99-33.

<sup>9</sup> The CPUC contends that it was not able to present a pooling plan in large part because California's incumbent local exchange carriers ("ILECs") refused to participate in developing one. See CPUC Petition, pp. 7-8. Bell Atlantic has also refused to participate in the New York commission's voluntary pooling trial. AT&T believes, however, that regardless of ILEC participation, state commissions can and should work with interested NXX code holders to establish the parameters of interim pooling proposals for submission to the FCC.

<sup>10</sup> See Pennsylvania Order, ¶ 21 (permitting state commissions to proceed with numbering administration measures "on a piecemeal basis" could "jeopardiz[e] telecommunications services throughout the country").

such plan, subsequent plans would proceed largely on the basis of “me-too” applications, further ensuring uniformity in important respects.

Even more importantly, the process of Commission review would help to ensure that interim pooling measures are rolled out at a pace that recognizes the industry's current technical limitations. Carriers' ability to engage in pooling is presently limited by their Service Control Point (“SCP”) capacity, as the Illinois commission recognized in establishing what is currently the only thousands block pooling trial in the nation.<sup>11</sup> At present, AT&T estimates that due to SCP capacity limitations it could participate in interim number pooling measures in no more than approximately eight NPAs nationwide in addition to the current 847 NPA trial<sup>12</sup> -- and AT&T's understanding is that other carriers have even less available SCP capacity. In this regard, an Illinois Commerce Commission hearing examiner has issued a draft decision proposing to expand the 847 trial so as to make thousands block pooling mandatory in four additional NPAs.<sup>13</sup> AT&T has opposed this expansion on the grounds that it exceeds the scope of the waiver granted to Illinois. If, however, thousands block pooling is ultimately implemented in an additional four NPAs in Illinois, that could reduce the number of interim pooling trials in all other states to approximately three. By performing a gatekeeper function for interim pooling proposals, the

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<sup>11</sup> See, e.g., Investigation Into Issues Relating to the Exhaustion of Telephone Numbers in the Chicago Metropolitan Area, Order (Illinois Commerce Commission, 98-0497), released December 16, 1998, p. 25 (finding that expansion of the Illinois pooling trial was subject to “Service Control Point (‘SCP’) capacity issues that must be addressed before number pooling can [be] prudently implemented”).

<sup>12</sup> The precise number of NPAs in which interim pooling plans could be implemented cannot be determined, as SCP capacity limitations on interim pooling depend on the number of NXXs in an NPA that are subject to pooling.

<sup>13</sup> Petition for Approval of NPA Relief Plans for the 312, 630, 708 and 723 NPAs, Hearing Examiner’s Proposed Interim Order (Illinois Commerce Commission 98-0847).

Commission can avoid the numbering “gridlock” that could occur if carriers were placed in the untenable position of facing conflicting state commission orders directing them to use their available SCP capacity to implement pooling.<sup>14</sup>

In addition, carriers have not yet developed automated processes to handle thousands block pooling, but instead must administer pooling via time-consuming manual procedures. These manual processes will limit both the rate at which pooling can be rolled out<sup>15</sup> and the number of NPAs in which interim pooling measures can be implemented. Further, carriers are unlikely to develop automated processes for interim pooling efforts, as such measures would presumably utilize the Number Portability Administrative Center (“NPAC”) Release 1.4 (the NPAC version used in the Illinois trial), while a national pooling solution is expected to rely on NPAC Release 3.0. Because diverting resources to develop automated systems for Release 1.4 would slow the development of a pooling solution based on release 3.0, the Commission and state commissions should not require the expansion of interim pooling to such an extent that carriers cannot continue to rely on the manual processes and procedures already in place for Release 1.4. Indeed, it is critically important that interim pooling plans not be permitted to negatively impact the development of broad national pooling measures in any fashion.

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<sup>14</sup> In evaluating interim pooling proposals, the Commission should also consider that the ability of pooling to increase the life of an NPA will depend critically on the number of unassigned NXXs remaining and available for pooling. See, e.g., Comments of AT&T Corp., p. 8, filed December 21, 1998 in North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Measures, NSD File No. L-98-134.

<sup>15</sup> AT&T estimates that interim pooling trials could be implemented no faster than at a rate of one NPA per month.

Second, in order to prevent the waste of resources and administrative strains that would occur if carriers were required to develop different processes and procedures for multiple state programs, the Commission should require interim pooling efforts to adhere to the technical standards established for the Illinois 847 NPA pooling trial to the extent possible.<sup>16</sup> In particular, interim pooling measures should, for the present at least, be based on NPAC Release 1.4. The industry has, however, made significant progress toward implementing a national thousands block pooling solution since the Illinois trial began. Accordingly, when possible, interim pooling measures should adhere to the policies and procedures established in the Industry Numbering Committee's ("INC's") pooling guidelines,<sup>17</sup> as that document likely parallels the rules that will most likely be adopted in the NRO NPRM.

Third, any interim pooling proposal should also adhere to certain specific requirements that the Pennsylvania Order found serves to ensure that a pooling trial operates in a nondiscriminatory manner. As a preliminary matter, if a state wishes to implement interim pooling measures, it must first provide for NPA relief for the area code in question, so that relief

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<sup>16</sup> See Pennsylvania Order, ¶ 30 ("We continue to be concerned, however, that there not be multiple, inconsistent pooling trials throughout the country, and therefore limit this grant of authority only to Illinois."). The Illinois commission consolidated its pooling trial docket with a docket in which it also addressed a variety of number conservation measures, some of which were not supported by the industry. For example, the Illinois trial requires all carriers, including those not participating in number pooling, to attain a 90% utilization rate, which may not be practical for some rapidly growing firms. AT&T does not believe that other states should be required to adopt the conservation measures imposed in the 847 NPA -- indeed, in some cases those measures appear to exceed the power granted to state commissions in the Pennsylvania Order. The Illinois pooling trial also required the mandatory return of thousands blocks, a measure that is not required for, and increases the cost and complexity of, interim pooling measures.

<sup>17</sup> Thousand Block (NXX-X) Pooling Administration Guidelines, Draft (INC 99-0127-023) (rev. Jan. 27, 1999) (available at <http://www.atis.org/atis/clc/inc/incdocs.htm>).

will not be delayed unnecessarily by the implementation of pooling. The Pennsylvania Order observed that:

although the Illinois pooling trial is mandatory, because the Illinois Commerce Commission (ICC) has ordered that an all services overlay will supersede the pooling trial in the event that NXXs in the 847 NPA are depleted, we conclude that the Illinois trial does not interfere with the operation of the guidelines that the Commission has established for traditional area code relief.<sup>18</sup>

The Pennsylvania Order also endorsed the Illinois trial's provision that “only those carriers that have implemented permanent number portability are subject to the trial, and that wireless carriers will not be subject to the trial until they are required to implement local number portability (“LNP”).”<sup>19</sup> The Commission has unequivocally recognized that carriers that have not deployed LNP cannot participate in pooling,<sup>20</sup> and should make the exclusion of such carriers a prerequisite for any interim pooling program. Any interim pooling plan must also, like the Illinois trial, ensure that adequate whole NXXs will be available to meet the numbering needs of non-LNP capable carriers. Further, interim pooling efforts should expressly provide that “national pooling rules or guidelines mandated by the Commission will supersede whatever guidelines [a state] has in effect for carriers operating within [that state].”<sup>21</sup>

Fourth, participation in any interim pooling measures should be mandatory for all LNP-capable carriers operating within an affected NPA, without regard for the utilization levels they

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<sup>18</sup> Pennsylvania Order, ¶ 30; see also id., n.94.

<sup>19</sup> Id.

<sup>20</sup> See, e.g., NRO NPRM, ¶ 159 (“[B]ecause thousands-block pooling and other pooling methods are based on LRN architecture, carriers who have not deployed LRN architecture to support LNP cannot participate in number pooling.”).

<sup>21</sup> Pennsylvania Order, ¶ 30.



have achieved or other metrics. In particular, ILECs must participate, as they will otherwise be able to avoid the expense and administrative burdens that will be imposed on their competitors that must participate in interim pooling plans.<sup>22</sup> The Illinois pooling trial -- the only mandatory trial approved by the Commission to date -- made ILEC participation mandatory. If some ILECs have relatively high utilization rates as compared to their competitive local exchange carrier ("CLEC") counterparts, that circumstance is merely an artifact of the ILECs' historic monopoly. ILECs have significant numbers of customers in every rate center in their territory because customers have not had, and today generally still do not have, any other choice for local telephone service.

Fifth, cost recovery for interim pooling methods should be deferred until the conclusion of the NRO NPRM, at which time the Commission will have developed a cost recovery methodology. For now, carriers should track their costs, which can be recovered later via whatever means the Commission's rules permit. Such an approach would be consistent with that taken in developing local number portability, and would ensure that wrangling over cost recovery does not delay implementation of interim pooling measures. In the event the Commission elected not to adopt national pooling requirements, it could simply adopt a mechanism to permit the recovery of interim pooling costs as an element of its orders in the NRO docket, if necessary. In addition, the Commission should confirm that any costs of interim pooling measures incurred by the NANP or the LNP administrators that are authorized by the Regional Limited Liability Companies or the NANC will be recoverable either through the cost recovery mechanism

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<sup>22</sup> Compare, e.g., AVR, L.P. d/b/a Hyperion of Tennessee, L.P., Petition for Preemption of Tennessee Code Annotated § 65-4-201(d), CC Docket No. 98-92, released May 27, 1999, ¶ 16 ("[A] state legal requirement would not as a general matter be 'competitively neutral' if it favors incumbent LECs over new entrants (or vice versa).").

adopted in the NRO NPRM proceeding, or via the ordinary NANP or LNP cost recovery mechanisms.

Finally, AT&T applauds the CPUC's efforts to investigate rate center consolidation ("RCC"), and urges the Commission to continue to encourage states to pursue this option. As the CPUC Petition notes, California has approximately 800 rate centers.<sup>23</sup> While RCC should be implemented in a manner that minimizes negative effects on emerging competition,<sup>24</sup> it could permit AT&T and other carriers to return substantial numbers of NXX codes in California, and could also serve to make any pooling plan far more efficient and effective.

### CONCLUSION

As stated above, AT&T stands on its comments and reply comments in response to the prior state commission petitions seeking authority to implement number conservation measures. AT&T urges the Commission to establish national conservation standards as expeditiously as possible to provide necessary relief to all states, carriers, and consumers on an equitable basis. In the interim, while the NRO NPRM is pending, the Commission should permit state commissions

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<sup>23</sup> CPUC Petition, p. 2.

<sup>24</sup> See, e.g., Comments of AT&T Corp. on Petition for Waiver, pp. 9-10, filed May 14, 1999 in Florida Public Service Commission Petition for Additional Delegated Authority to Implement Number Conservation Measures, NSD File No. L-99-33.

to implement limited interim thousands block number pooling plans, consistent with the conditions described above.

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June 14, 1999

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